BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Investigation of Ohio's Retail Electric Service Market.	)))	Case No. 12-3151-EL-COI

APPLICATION FOR REHEARING OF OHIO POWER COMPANY

Pursuant to Section 4903.10, Ohio Revised Code ("R.C."), and Rule 4901-1-35, Ohio Administrative Code ("O.A.C."), Ohio Power Company ("AEP Ohio" or the "Company") respectfully files this Application for Rehearing of the Public Utilities Commission of Ohio's ("Commission") March 26, 2014, Finding and Order ("Order"). The Commission's Order is unreasonable and unlawful in the following respects:

I. It was unreasonable and unlawful for the Order to impose new regulatory mandates upon AEP Ohio without simultaneously providing for recovery of associated costs.

A memorandum in support of this Application for Rehearing is attached.

Respectfully submitted,

/s/ Steven T. Nourse

Steven T. Nourse
Matthew J. Satterwhite
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
Telephone: (614) 715-1608
Fax: (614) 716-2950
Email: stnourse@aep.com
mjsatterwhite@aep.com

Counsel for Ohio Power Company

MEMORANDUM IN SUPPORT

ARGUMENT

I. It was unreasonable and unlawful for the Order to impose new regulatory mandates upon AEP Ohio without simultaneously providing for recovery of associated costs.

The Commission issued its Finding and Order (Order) in this docket as part of its ongoing efforts into retail competitive market in Ohio. While there were several new regulatory mandates adopted in the Order, there were also matters that the Commission "punted" to other dockets or Staff and industry working groups. AEP Ohio generally supports the Commission in this ongoing effort and is open to continued review and improvement of matters relating to the interface between electric distribution utilities (EDUs) and competitive retail electric service (CRES) providers. Unfortunately, however, the Commission did not fully address recovery of the costs associated with these new regulatory mandates – thus potentially creating unfunded mandates. In some instances, the Commission indicated that associated costs would be recoverable in a general rate case as a normal operating expense. That is not a reasonable approach and does not enable an electric utility to fully recover the incremental cost of these new regulatory mandates. Rather, in order to keep the interests of various stakeholders aligned, the Commission should affirmatively and fully address cost recovery. Specifically, the Commission should authorize the electric utilities to defer and fully recover the incremental costs of compliance associated with the Order. After all, if each of the new regulatory mandates has merit and is worth adopting, then paying for each regulatory mandate should be addressed now and not left for subsequent determination. Indeed, the Commission specifically indicated in the

Order that the costs should be weighed against the benefits in deciding whether to adopt new statewide regulatory requirements in this docket. (Order at 6.)

The approach taken in the Order for some issues was to defer the new obligations to other dockets and seemed to indicate that associated cost recovery would be simultaneously addressed as part of that separate docket. (Order at 2, indicating that purchase of receivables programs should be addressed in distribution rate cases or SSO rate cases; Order at 38, indicating that costs associated with time-differentiated rates would be recovered through smartgrid riders.) That approach to cost recovery is not objectionable to AEP Ohio. Unfortunately, there are also multiple directives in the Order that will cause electric utilities to incur additional costs as explicitly acknowledged by the Commission but without creating a recovery mechanism: (1) the creation of a continual cycle of corporate separation audits for which the Commission indicates costs would be "recoverable" but fails to provide for a cost recovery mechanism [Order at 17]; (2) pursuing various enhancements to EDI systems [Order at 23]; (3) new obligation to develop either a statewide seamless move, contract portability, instant connect, or warm transfer process [Order at 25]; and (4) new obligation to implement bill format enhancements including the displaying of CRES logo while rejecting the proposed fee to CRES providers for payment of costs even though the Commission acknowledged CRES are the "cost causer" for new services – simply indicating that the costs are "appropriate for recovery by an EDU in a distribution rate case." [Order at 26-32]. Each of these requirements is significant and together they could involve substantial costs upon full implementation.

Moreover, several additional passages in the Order "punt" issues into the new working group or to other cases for implementation – so there could end up being even more unfunded mandates that come out of this Order. Presumably, the Commission viewed the overall benefits

associated with these new mandates as being worth the cost involved. Certainly, each of the mandates comes with a price tag. Thus, in order to keep EDU and CRES interests better aligned, the Commission should do the responsible thing and avoid creating unfunded mandates by providing for full cost recovery.

When adopting new regulatory requirements designed to implement the competitive provisions of SB 3 and SB 221 in the past, the Commission has previously been more careful to provide for cost recovery associated with such new regulatory requirements. There is no reason why the same approach cannot or should not be taken here. The authority under R.C. 4905.13 is more than adequate to enable the Commission to permit EDUs to defer the incremental costs associated with the new regulatory requirements created by the Order. *See e.g. Elyria Foundry Co. v. Pub. Util. Comm.*, 114 Ohio St.3d 305, 308 (2007). And it is only fair for the Commission to do so. If the regulatory requirement advances the public interest and is justified, then the cost of the regulatory mandate should be funded.

As referenced above, the Order – in some but not all instances – acknowledged the existence of compliance costs and merely indicated that the costs were "recoverable" (referring to Staff's view that the costs would be recoverable "as a normal operating expense") or "are appropriate for recovery by an EDU in a distribution rate case" could be recovered . (Order at 13, 17, and 26.) Saying that costs can be recovered in the next rate case – without also providing for authority to create an accounting deferral with a carrying charge – is inadequate and does not allow the EDU to fully recover the incremental costs of the mandate. There are a variety of factors that determine a utility's operating expense for any given year and the same is true for a test period that would be used for a general rate case. The compliance costs associated with the Order's mandates will likely be spread over a number of years, especially given that some issues

were resolved and others will be implemented over time and through the working groups. While the costs may be spread out, that does not reduce the total cost or financial impact on the EDUs. Moreover, in any given year, the compliance costs may not be significant enough to drive a major rate case filing.

In any case, it is clear that the approach taken in the Order of leaving the cost recovery to occur under the normal rate case process will unfairly result in under-recovery by EDUs of the true costs associated with the Order – absent authorizing regulatory assets through creation of accounting deferrals. Intentionally shorting the EDUs on compliance cost recovery will not help align the interests of EDUs with that of CRES providers in robustly pursuing otherwise mutually-desirable solutions. Rather, the Commission should authorize the EDUs to create accounting deferral, with a carrying charge, to track and recover the incremental costs associated with the new regulatory mandates adopted in the Order.

CONCLUSION

For the reasons set forth above, the Commission should grant this Application for Rehearing and modify its March 26, 2014 Finding and Order.

Respectfully submitted,

/s/ Steven T. Nourse
Steven T. Nourse
Matthew J. Satterwhite
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
Telephone: (614) 715-1608
Fax: (614) 716-2950
Email: stnourse@aep.com
mjsatterwhite@aep.com

Counsel for Ohio Power Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the parties of record in these proceedings by electronic service this 25th day of April, 2014.

/s/ Steven T. Nourse
Steven T. Nourse

EMAIL SERVICE LIST

amy.spiller@duke-energy.com
anne.reese@lasclev.org
BarthRoyer@aol.com
burkj@firstenergycorp.com
callwein@wanenergylaw.com
cathy@theoec.org
cdunn@firstenergycorp.com
cgoodman@energymarketers.com
cmooney2@columbus.rr.com
coneil@calfee.com
cynthia.brady@constellation.com
dboehm@BKLlawfirm.com
david.fein@constellation.com
drinebolt@ohiopartners.org
ejacobs@ablelaw.org
elizabeth.bennett@exeloncorp.com
Elizabeth.watts@duke-energy.com
fdarr@mwncmh.com
Gary.A.Jeffries@dom.com
gbenjamin@communitylegalaid.org
gkrassen@bricker.com
gpoulos@enernoc.com
mhpetricoff@vorys.com
JABorell@co.lucas.oh.us
Jeanne.Kingery@duke-energy.com
jkooper@hess.com
jlang@calfee.com
jmaskovyak@ohiopovertylaw.org
Joseph.serio@occ.ohio.gov
judi.sobecki@aes.com
Julie.robie@lasclev.org
Leslie.kovacik@toledo.oh.gov
jkylercohn@BKLlawfirm.com
lmcbride@calfee.com
glpetrucci@vorys.com
mpritchard@wencmh.com
lsacher@calfee.com
haydenm@firstenergycorp.com
Maureen.Grady@occ.ohio.gov
meissnerjoseph@yahoo.com
mkurtz@BKLlawfirm.com
msmalz@ohiopovertylaw.org
mkl@bbrskaw.com
mlinville@columbuslegalaid.org
mwalters@proseniors.org
mwarnock@bricker.com
NMcDaniel@elpc.org
nmorgan@lascinti.org
plee@oslsa.org
rjohns@oslsa.org
Rocco.DAscenzo@duke-energy.com
sam@mwncmh.com
srantala@energymarketers.com
smhoward@vorys.com
stephen.bennett@exeloncorp.com
storguson@columbuslegalaid.org
talexander@calfee.com
toddm@wamenergylaw.com
trent@theoec.org
trhayskaw@gmail.com
William.wright@puc.state.oh.us
wsundermeyer@aarp.org
mswhite@igsenergy.com
marmstrong@bricker.com
nmorgan@lasciali.org
fmerrill@bricker.com
joseph.clark@directenergy.com
bojko@carpenterlipps.com
stnourse@aep.com
yalami@aep.com
mjsatterwhite@aep.com

Summary: Application for Rehearing of Ohio Power Company electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company